IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.MC.No. 875 of 2007()

CP.29/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
CRIME NO. 178/05 OF CHERANALLOOR POLICE STATION

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PETITIONER/A1:

GOPALAKRISHNAN, S/O. KUNJUKUNJU
AGED 40, RESIDING AT PALAKKATTU VEEDU
THIRUVANVANDOOR, CGEBGABBYR TALUK,
ALAPPUZHA DIST.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.AJITH MURALI

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 875 of 2007

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Dated this the 23rd day of March, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 8(1) and (2) of the Kerala Abkari Act. Consequent to the non-appearance of the petitioner before the learned Magistrate, he finds a non-bailable warrant issued by the learned Magistrate chasing him. The petitioner, in these circumstances, wants to surrender before the learned Magistrate. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate, needless to say, must consider such cause on merits and pass appropriate orders. I have no reason to assume that the learned Magistrate would not do the same. No special or specific direction appears

to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling and exceptional reasons.

(R. BASANT)
Judge

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